

[COMMITTEE PRINT]

APRIL 30, 2001

[Showing the text of H.R. 1542 as Reported by the Subcommittee on Telecommunications and the Internet]

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Freedom and
3 Broadband Deployment Act of 2001”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Internet access services are inherently inter-
7 state and international in nature, and should there-
8 fore not be subject to regulation by the States.

9 (2) The imposition of regulations by the Fed-
10 eral Communications Commission and the States
11 has impeded the rapid delivery of high speed Inter-
12 net access services to the public, thereby reducing
13 consumer choice and welfare.

14 (3) The Telecommunications Act of 1996 rep-
15 resented a careful balance between the need to open
16 up local telecommunications markets to competition
17 and the need to increase competition in the provision
18 of interLATA voice telecommunications services.



1 (4) In enacting the prohibition on Bell oper-
2 ating company provision of interLATA services,
3 Congress recognized that certain telecommunications
4 services have characteristics that render them in-
5 compatible with the prohibition on Bell operating
6 company provision of interLATA services, and ex-
7 empted such services from the interLATA prohibi-
8 tion.

9 (5) High speed data services and Internet ac-
10 cess services constitute unique markets that are like-
11 wise incompatible with the prohibition on Bell oper-
12 ating company provision of interLATA services.

13 (6) Since the enactment of the Telecommuni-
14 cations Act of 1996, the Federal Communications
15 Commission has construed the prohibition on Bell
16 operating company provision of interLATA services
17 in a manner that has impeded the development of
18 advanced telecommunications services, thereby lim-
19 iting consumer choice and welfare.

20 (7) Internet users should have choice among
21 competing Internet service providers.

22 (8) Internet service providers should have the
23 right to interconnect with high speed data networks
24 in order to provide service to Internet users.



1 (b) PURPOSES.—It is therefore the purpose of this
2 Act to provide market incentives for the rapid delivery of
3 advanced telecommunications services—

4 (1) by deregulating high speed data services
5 and Internet access services;

6 (2) by clarifying that the prohibition on Bell op-
7 erating company provision of interLATA services
8 does not extend to the provision of high speed data
9 services and Internet access services;

10 (3) by ensuring that consumers can choose
11 among competing Internet service providers; and

12 (4) by ensuring that Internet service providers
13 can interconnect with competitive high speed data
14 networks in order to provide Internet access service
15 to the public.

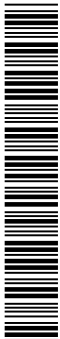
16 **SEC. 3. DEFINITIONS**

17 (a) AMENDMENTS.—Section 3 of the Communica-
18 tions Act of 1934 (47 U.S.C. 153) is amended—

19 (1) by redesignating paragraph (20) as para-
20 graph (21);

21 (2) by redesignating paragraphs (21) through
22 (52) as paragraphs (24) through (54), respectively;

23 (3) by inserting after paragraph (19) the fol-
24 lowing new paragraph:

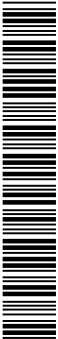


1 “(20) HIGH SPEED DATA SERVICE.—The term
2 ‘high speed data service’ means any service that con-
3 sists of or includes the offering of a capability to
4 transmit, using a packet-switched or successor tech-
5 nology, information at a rate that is generally not
6 less than 384 kilobits per second in at least one di-
7 rection.”;

8 (4) by inserting after paragraph (22) the fol-
9 lowing new paragraphs:

10 “(23) INTERNET.—The term ‘Internet’ means
11 collectively the myriad of computer and tele-
12 communications facilities, including equipment and
13 operating software, which comprise the inter-
14 connected world-wide network of networks that em-
15 ploy the Transmission Control Protocol/Internet
16 Protocol, or any predecessor or successor protocols
17 to such protocol, to communicate information of all
18 kinds by wire or radio.

19 “(24) INTERNET ACCESS SERVICE.—The term
20 ‘Internet access service’ means (A) a service that
21 combines computer processing, information storage,
22 protocol conversion, and routing with transmission
23 to enable users to access Internet content and serv-
24 ices, and (B) the transmission of such service, but



1 does not include the portion of such transmission
2 from the user to the provider of such service.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 230(f) of the Communications Act
5 of 1934 (47 U.S.C. 230(f)) is amended—

6 (A) by striking paragraph (1); and

7 (B) by redesignating paragraphs (2)
8 through (4) as paragraphs (1) through (3), re-
9 spectively.

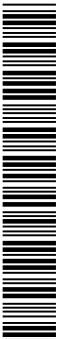
10 (2) Section 223(h)(2) of such Act (47 U.S.C.
11 223(h)(2)) is amended by striking “230(f)(2)” and
12 inserting “230(f)(1)”.

13 **SEC. 4. LIMITATION ON AUTHORITY TO REGULATE HIGH**
14 **SPEED DATA SERVICES.**

15 (a) IN GENERAL.—Part I of title II of the Commu-
16 nications Act of 1934 (47 U.S.C. 201 et seq.) is amended
17 by adding at the end the following new section:

18 **“SEC. 232. PROVISION OF HIGH SPEED DATA SERVICES.**

19 “(a) FREEDOM FROM REGULATION.—Except to the
20 extent that high speed data service and Internet access
21 service are expressly referred to in this Act, neither the
22 Commission, nor any State, shall have authority to regu-
23 late the rates, charges, terms, or conditions for, or entry
24 into the provision of, any high speed data service or Inter-
25 net access service, or to regulate the facilities used in the



1 provision of either such service; nor shall the Commission
2 impose or require the collection of any fees, taxes, charges,
3 or tariffs upon such service.

4 “(b) SAVINGS PROVISION.—Nothing in this section
5 shall be construed to limit or affect the authority of any
6 State to regulate voice telephone exchange services, nor
7 affect the rights of cable franchise authorities to establish
8 requirements that are otherwise consistent with this Act.

9 “(c) CONTINUED ENFORCEMENT OF ESP EXEMP-
10 TION, UNIVERSAL SERVICE RULES PERMITTED.—Noth-
11 ing in this section shall affect the ability of the Commis-
12 sion to retain or modify—

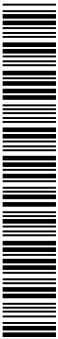
13 “(1) the exemption from interstate access
14 charges for enhanced service providers under Part
15 69 of the Commission’s Rules; or

16 “(2) rules issued pursuant to section 254.”.

17 (b) CONFORMING AMENDMENT.—Section 251 of the
18 Communications Act of 1934 (47 U.S.C. 251) is amended
19 by adding at the end thereof the following new subsection:

20 “(j) EXEMPTION.—

21 “(1) IN GENERAL.—Notwithstanding the provi-
22 sions of subsections (c) and (d), the Commission
23 shall not require an incumbent local exchange car-
24 rier to—

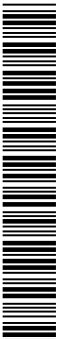


1 “(A) provide unbundled access to any net-
2 work elements used in the provision of any high
3 speed data service, other than those network
4 elements described in section 51.319 of the
5 Commission’s regulations (47 C.F.R. 51.319),
6 as in effect on January 1, 1999; or

7 “(B) offer for resale at wholesale rates any
8 high speed data service.

9 “(2) AUTHORITY TO REDUCE ELEMENTS SUB-
10 JECT TO REQUIREMENT.—Paragraph (1)(A) shall
11 not prohibit the Commission from modifying the reg-
12 ulation referred to in that paragraph to reduce the
13 number of network elements subject to the
14 unbundling requirement, or to forbear from enforce-
15 ing any portion of that regulation in accordance with
16 the Commission’s authority under section 706 of the
17 Telecommunications Act of 1996, notwithstanding
18 any limitation on that authority in section 10 of this
19 Act.

20 “(3) PROHIBITION ON DISCRIMINATORY SUB-
21 SIDIES.—Any network element used in the provision
22 of high speed data service that is not subject to the
23 requirements of subsection (c) shall not be entitled
24 to any subsidy, including any subsidy pursuant to
25 section 254, that is not provided on a nondiscrim-



1 inatory basis to all providers of high speed data
2 service and Internet access service. This prohibition
3 on discriminatory subsidies shall not be interpreted
4 to authorize or require the extension of any subsidy
5 to any provider of high speed data service or Inter-
6 net access service.”.

7 **SEC. 5. INTERNET CONSUMERS FREEDOM OF CHOICE.**

8 Part I of title II of the Communications Act of 1934,
9 as amended by section 4, is amended by adding at the
10 end the following new section:

11 **“SEC. 233. INTERNET CONSUMERS FREEDOM OF CHOICE.**

12 “(a) PURPOSE.—It is the purpose of this section to
13 ensure that Internet users have freedom of choice of Inter-
14 net service provider.

15 “(b) OBLIGATIONS OF INCUMBENT LOCAL EX-
16 CHANGE CARRIERS.—Each incumbent local exchange car-
17 rier has the duty to provide—

18 “(1) Internet users with the ability to subscribe
19 to and have access to any Internet service provider
20 that interconnects with such carrier’s high speed
21 data service;

22 “(2) any Internet service provider with the
23 right to acquire the facilities and services necessary
24 to interconnect with such carrier’s high speed data



1 service for the provision of Internet access service;
2 and

3 “(3) any Internet service provider with the abil-
4 ity to collocate equipment in accordance with the
5 provisions of section 251, to the extent necessary to
6 achieve the objectives of paragraphs (1) and (2) of
7 this subsection.

8 “(c) DEFINITIONS.—As used in this section—

9 “(1) INTERNET SERVICE PROVIDER.—The term
10 ‘Internet service provider’ means any provider of
11 Internet access service.

12 “(2) INCUMBENT LOCAL EXCHANGE CAR-
13 RIER.—The term ‘incumbent local exchange carrier’
14 has the same meaning as provided in section
15 251(h).”.

16 **SEC. 6. INCIDENTAL INTERLATA PROVISION OF HIGH**
17 **SPEED DATA AND INTERNET ACCESS SERV-**
18 **ICES.**

19 (a) INCIDENTAL INTERLATA SERVICE
20 PERMITTED.—Section 271(g) of the Communications Act
21 of 1934 (47 U.S.C. 271(g)) is amended—

22 (1) by striking “or” at the end of paragraph
23 (5);

24 (2) by striking the period at the end of para-
25 graph (6) and inserting “; or”; and



1 (3) by adding at the end thereof the following
2 new paragraph:

3 “(7) of high speed data service or Internet ac-
4 cess service.”.

5 (b) PROHIBITION ON PROVISION OF VOICE SERV-
6 ICES.—Section 271 of such Act is amended by adding at
7 the end thereof the following new subsection:

8 “(k) PROHIBITION ON PROVISION OF VOICE TELE-
9 PHONE SERVICES.—Until the date on which a Bell oper-
10 ating company is authorized to offer interLATA services
11 originating in an in-region State in accordance with the
12 provisions of this section, such Bell operating company of-
13 fering any high speed data service or Internet access serv-
14 ice pursuant to the provisions of paragraph (7) of sub-
15 section (g) may not, in such in-region State provide
16 interLATA voice telecommunications service, regardless of
17 whether there is a charge for such service, by means of
18 the high speed data service or Internet access service pro-
19 vided by such company.”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 272(a)(2)(B)(i) of such Act is
22 amended to read as follows:

23 “(i) incidental interLATA services de-
24 scribed in paragraphs (1), (2), (3), (5),
25 (6), and (7) of section 271(g).”.



1 (2) Section 272(a)(2)(C) of such Act is re-
2 pealed.

3 **SEC. 7. COMMISSION AUTHORIZED TO PRESCRIBE JUST**
4 **AND REASONABLE CHARGES.**

5 The Federal Communications Commission may im-
6 pose penalties under section 503 of the Communications
7 Act of 1934 not to exceed \$1,000,000 for any violation
8 of provisions contained in, or amended by, section 5 or
9 6 (or both) of this Act. Each distinct violation shall be
10 a separate offense, and in the case of a continuing viola-
11 tion, each day shall be deemed a separate offense, except
12 that the amount assessed for any continuing violation shall
13 not exceed a total of \$10,000,000 for any single act or
14 failure to act described in section 5 or 6 (or both) of this
15 Act.

